

**ATTORNEY DOCKET NO. 23101.0003U1  
PATENT****IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Application of	)	
	)	
CANTRELL et al.	)	
	)	Group Art Unit: 1632
Serial No. 09/784,575	)	
	)	Examiner: Wilson, Michael C.
Confirmation No. 1832	)	
	)	
Filed: February 15, 2001	)	
	)	
For: "IN OVO ACTIVATION OF AN	)	
EGG IN THE SHELL"	)	

**ELECTION UNDER RESTRICTION REQUIREMENT**

**VIA FACSIMILE TRANSMISSION**  
703/308-4242  
ATTN: Examiner M. Wilson  
Group Art Unit 1632  
Commissioner for Patents  
Washington, D.C. 20231

NEEDLE & ROSENBERG, P.C.  
The Candler Building  
127 Peachtree Street, N.E.  
Atlanta, Georgia 30303-1811

August 2, 2002

Sir:

This is responsive to the April 24, 2002 Office Action, wherein restriction of the claims is required regarding the above-referenced patent application.

The Office Action requires restriction to one of three groups of claims.

Group I: Claims 1-58, drawn to a method of artificially fertilizing an avian egg, classified in class 119, subclass 6.8;

**ATTORNEY DOCKET NO. 23101.0003U1****Serial No. 09/784,575**

Group II: Claims 59-80, drawn to an avian egg comprising an embryo, classified in class 426, subclass 614;

Group III: Claims 81- 87, drawn to a method of introducing a nucleic acid into an avian egg, classified in class 800, subclass 24.

Applicants provisionally elect Group II, claims 59-80, with traverse.

Applicants also request that the restriction requirement be reconsidered because the Examiner has not shown the existence of independent and distinct inventions in all the claim groupings or that a serious burden would result if all the claims were examined together.

M.P.E.P. § 803 provides:

If the search and examination of an entire application can be made without serious burden, the Examiner must examine it on the merits, even though it includes claims to distinct or independent inventions. (*Emphasis added.*)

Thus, for a restriction requirement to be proper, the Examiner must satisfy the following two criteria: (1) the existence of independent and distinct inventions (35 U.S.C. § 121) and (2) the search and examination of the entire application cannot be made without serious burden.

The Examiner has not shown that a serious burden would result if the claims of Groups I, II and III were to be examined together. Moreover, applicants respectfully assert that restriction of the claims as set forth by the Examiner would be contrary to promoting efficiency, economy and expediency in the U.S. Patent and Trademark Office and further point out that restriction by the Examiner is discretionary (M.P.E.P. § 803.01). Thus, applicants respectfully request that the restriction requirement be withdrawn and that claims 1-87 be examined together. Therefore,

**ATTORNEY DOCKET NO. 23101.0003U1**  
**Serial No. 09/784,575**

reconsideration and withdrawal of the restriction requirement is requested.

A Credit Card Payment Form PTO-2038 for payment in the amount of \$460.00 ((1 page) for a three (3) month extension of time fee) is enclosed. This amount is believed to be correct; however, the Commissioner is hereby authorized to charge any deficiency or credit any overpayment to Deposit Account No. 14-0629.

Respectfully submitted,

NEEDLE & ROSENBERG, P.C.

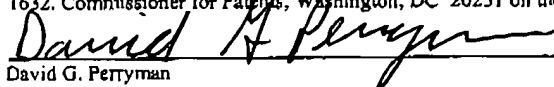


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**CERTIFICATE OF FACSIMILE TRANSMISSION**

I hereby certify that this correspondence is being sent via facsimile transmission to 703/308-4242, ATTN: Examiner M. Wilson, Art Unit 1632, Commissioner for Patents, Washington, DC 20231 on the date shown below.

  
David G. Perryman

8-2-02  
Date